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TO : Chief, Procurement Division

SUBJECT: Inquiries Re: (1) Continuance of Work on Contracts
Involving Lapsed Appropriations and (2) The Use
of Expired Funds

1. You have recently inquired whether it is possible for our contractors to continue working beyond 30 June 1956 on a Fiscal Year 1954 contract and for us to continue to pay for this work from Fiscal Year 1954 funds. The following information is presented in response to this inquiry:

a. In the case of vouchered funds, any payment made after 30 June 1956 must be made by the Comptroller General if Fiscal Year 1954 funds are to be used. The Comptroller General may pay for (a) work performed prior to 30 June 1956 but remaining unbilled or unpaid for on 30 June 1956, and (b) work performed after 30 June 1956 so long as the original scope of the work remains unchanged and the dollars originally obligated are not exceeded.

b. In the case of Confidential Funds, we continue settling obligations incurred under these contracts by processing payments within the Agency under the provisions of Public Law 110. While we utilize this general authority we have never been given any specific authority with regard to payment from lapsed appropriations. [redacted] provides that "The normal provisions of Government Statutes and the established procedures for the expenditure of Government Funds will be followed by CIA in its expenditure of Confidential Funds. . .". More specifically, these normal provisions are set forth in [redacted] which quotes and prescribes the portion of Section 1311 of Public Law 663, 83rd Congress which says, "No appropriation or fund which is limited for obligation purposes to a definite period of time shall be available for expenditure after the expiration of such period. . ." and ". . .no such appropriation or fund shall remain available for expenditure for any period beyond that otherwise authorized by law." Therefore, while we may settle these contracts for which appropriations have lapsed, we may not use 1954 fiscal year dollars beyond 30 June 1956.

c. Effective 1 July 1956, further Confidential Funds payments on a 1954 contract are being made from the oldest funds we have available within our authorization to make expenditures within two years after the close of the year in which the obligation was established. These funds are made available in accordance with the provisions of [redacted] and in the present situation we will probably use 1955 dollars to pay for the continued work on a 1954 contract.

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d. In summary, payments to contractors under contracts obligated against 1954 (or any other lapsed year) funds, whether vouchered or Confidential Funds are used, may be made:

(1) For work performed prior to the close of the fiscal year involved; or

(2) For work performed after 30 June provided the work was covered by the original scope of the contract and payment for the work will not result in payments in excess of the amount originally obligated under the contract.

The only difference between vouchered and Confidential Funds insofar as the above payments are concerned is that settlement by the Comptroller General in the case of vouchered funds is made from appropriations no longer available to the Agency, i.e., 1954, whereas in the case of Confidential Funds settlement within the Agency requires that payment be charged to currently available funds. Normally such charges are made against the oldest available funds, i.e., in this case 1955.

2. You have also inquired whether it is possible to obligate expired funds (for example the current obligation of 1955 fiscal year funds) to pay for the work done as a result of adding to the scope of work to be performed on a contract placed during the Fiscal Year 1954.

The law and CIA regulations provide that funds appropriated for any particular fiscal year must be obligated within that fiscal year or the unobligated portion will expire. Therefore, at the present time no further obligations may be incurred using 1955 fiscal year money.

3. The extending of the time of performance of a contract placed in the Fiscal Year 1954 has no effect on the amount of the obligations. Such extensions, if approved by the contracting officer, are acceptable and payments under extended contracts are made under the above policies regarding availability of funds.

[Redacted]
Chief, Finance Division

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CONCURRENCE:

[Redacted]
Comptroller Acting

General Counsel

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